IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-44890-2022
Reserved on:-25.05.2026
Pronounced on:- 29.05.2026
Uploaded on:- _____

Whether only operative part of the judgment is Pronounced or the full judgment is pronounced: *operative part/full judgment*

RAJESH SINGH AND OTHERS **...Petitioners**

Versus

STATE OF PUNJAB **....Respondent**

CORAM: HON'BLE MS. JUSTICE MANDEEP PANNU

Present:- Mr. Rakesh Verma, Advocate and
Mr. Manish Verma, Advocate
for the petitioners.

Mr. Sahil Chowdhary, AAG, Punjab.

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MANDEEP PANNU, J.

1. Present petition has been filed under Section 482 Cr.P.C. for quashing of impugned Complaint No. 1 dated 04.01.2021 under Sections 3(k)(i), 17, 18, 29 and 33 of the Insecticides Act, 1968 read with Rule 27(5) of the Insecticides Rules, 1971, titled as *"State Vs. M/s Tarandeep Kissan Khushali Kendra and others*", pending adjudication before the Court of learned Chief Judicial Magistrate, Fatehgarh Sahib, along with summoning order dated 04.01.2021 and all consequential proceedings arising therefrom qua the petitioners.

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2. Before discussing the facts of the present case, it is relevant to mention here that petitioner Nos. 1, 2 and 3 are the marketers. Petitioner No. 1 namely Rajesh Singh is the Godown Incharge of marketer company M/s SDS Ramicides Crop Science Pvt. Ltd., Petitioner No. 3 namely Ramesh Kumar Mehla is the Manager of the aforesaid company i.e. M/s SDS Ramicides Crop Science Pvt. Ltd. The said company has been impleaded as petitioner No. 2 through petitioner No. 1. It is further pertinent to mention that petitioner Nos. 4 and 5 are the manufacturers. Petitioner No. 4 namely S. Parthasarathy is the Manager of M/s SDS Ramicides Crop Science Pvt. Ltd., whereas petitioner No. 5 namely R. Gopal is the Director of the said company and is the manufacturer. In nutshell, the marketers as well as the manufacturers have jointly filed the present petition seeking quashing of the impugned complaint, summoning order and all consequential proceedings arising therefrom.

3. Brief facts necessary for adjudication of the present petition are that the dealer firm namely M/s Tarandeep Kissan Khushali Kendra, Morinda Road, Chunni Kalan, District Fatehgarh Sahib was inspected by the Insecticide Inspector on 05.02.2020 and samples of insecticide Thiamethoxam 30% FS bearing Batch No. SDSRP019802, manufacturing date 20.09.2018 and expiry date 19.09.2020 were collected from the said dealer. The said product was manufactured by M/s SDS Ramicides Crop Science Pvt. Ltd., Chennai and was marketed/supplied through its Sales Centre/Godown situated at R.K. Warehouse, Alamgir, Ludhiana. The dealer namely M/s Tarandeep Kissan Khushali Kendra was selling the said

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insecticide in the ordinary course of business. Thereafter, one sealed sample portion was sent to the Insecticide Testing Laboratory, Ludhiana on 06.02.2020 for analysis. The analysis report dated 26.02.2020 was thereafter received, wherein the sample was declared misbranded as the active ingredient contents were found to be 14.79% instead of prescribed Thiamethoxam 30%. Thereafter, show-cause notice dated 14.05.2020 was issued to the dealer firm for violation of the provisions of the Insecticides Act, 1968. In response thereto, the dealer submitted replies dated 20.05.2020 and 22.05.2020 and requested for re-testing of the reference sample from the Central Insecticides Laboratory, Faridabad. Subsequently, the dealer deposited the re-testing fee and informed the authorities vide letter dated 05.08.2020. Thereafter, vide communication dated 10.08.2020, the dealer was informed to get the reference sample re-tested through the Court before expiry of the shelf life of the sample. Accordingly, an application for re-testing was filed before the learned Court on 18.08.2020 and the learned Court vide order dated 18.09.2020 directed re-testing of the reference sample from the Central Insecticides Laboratory, Faridabad. Thereafter, show-cause notice dated 08.10.2020 was issued to the manufacturing/marketing company i.e. petitioners and to its responsible officials regarding failure of the sample. In response thereto, the petitioners submitted their reply dated 22.10.2020 along with their own analysis report. Thereafter, the competent authority accorded sanction/consent under Section 31(1) of the Insecticides Act vide letter dated 07.12.2020 for launching prosecution against the accused persons and consequently, complaint No. 1

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dated 04.01.2021 came to be filed before the learned Chief Judicial Magistrate, Fatehgarh Sahib.

4. Learned counsel for the petitioners has vehemently contended that the present impugned complaint deserves to be quashed as the petitioners were deprived of their valuable statutory right to get the referee sample re-analysed from the Central Insecticides Laboratory. It has been argued that the sample in question namely Thiamethoxam 30% FS bearing Batch No. SDSRP019802 had manufacturing date 20.09.2018 and expiry date 19.09.2020, however, the show-cause notice to the present petitioners/manufacturing company was issued only on 08.10.2020 i.e. after expiry of the shelf life of the sample. It is further contended that although the petitioners submitted reply dated 22.10.2020 seeking re-analysis of the referee sample from the Central Insecticides Laboratory, the same could not be done as the shelf life of the sample had already expired even before issuance of the show-cause notice to the petitioners. It has further been argued that due to the inaction and delay on the part of the complainant and the Chief Agricultural Officer, Fatehgarh Sahib, the petitioners lost their valuable and substantive right available under Section 24(4) and 24(5) of the Insecticides Act, 1968 to challenge the report of the State Analyst by seeking re-analysis from the Central Insecticides Laboratory. Thus, continuation of the criminal proceedings would amount to abuse of the process of law and the impugned complaint along with all consequential proceedings deserves to be quashed.

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5. In support of the aforesaid contentions, learned counsel for the petitioners has placed reliance upon the judgment of the Hon'ble Supreme Court in ***M/S Northern Minerals Ltd. and others versus Rajasthan Government and another, 2016(2) R.C.R. (Criminal) 996***, wherein it has been held that where the complaint is filed after expiry of shelf life of the sample and the accused loses the valuable right to get the second sample re-tested from the Central Insecticides Laboratory, the proceedings are liable to be quashed. Reliance has also been placed upon the observations made therein that even an accused other than the person from whom the sample was taken has a right to adduce evidence in controversion of the Insecticide Analyst's report by seeking analysis from the Central Insecticides Laboratory.

6. Learned State counsel, while opposing the present petition, has contended that there was no intentional or deliberate delay on the part of the Department in proceeding against the petitioners. It has been submitted that the sample of Thiamethoxam 30% FS bearing Batch No. SDSRP019802 was drawn on 05.02.2020 and one sealed sample was immediately sent to the Insecticide Testing Laboratory, Ludhiana on 06.02.2020 i.e. on the very next day of sampling. Thereafter, Analysis Report T.A. No. 529 dated 26.02.2020 was received in the office of the Chief Agricultural Officer, Fatehgarh Sahib on 06.03.2020 declaring the sample as misbranded. It has further been contended on behalf of the State that immediately thereafter, complete national lockdown owing to Covid-19 pandemic came into force in the month of March, 2020, due to which normal functioning of Government

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offices remained affected. It is submitted that after resumption of office functioning, show-cause notice dated 14.05.2020 was issued to the dealer firm namely M/s Tarandeep Kissan Khushali Kendra and its proprietor, to which replies dated 20.05.2020 and 22.05.2020 were submitted by the dealer. Learned State counsel has further argued that thereafter the dealer firm was informed to get the referee sample re-analysed through the Court by depositing requisite fee and accordingly vide Office Letter dated 10.08.2020, the dealer was advised to approach the Court for re-testing of the reference sample before expiry of shelf life. Pursuant thereto, the dealer moved an application before the learned Chief Judicial Magistrate, Fatehgarh Sahib on 18.08.2020 seeking re-analysis of the reference sample and the learned Court vide order dated 18.09.2020 directed that the reference sample be sent to the Central Insecticides Laboratory, Faridabad for re-analysis. It is contended that the reference sample was accordingly sent on 18.09.2020 itself, however, the Central Insecticides Laboratory, Faridabad vide communication/report dated 29.09.2020 informed that the sample could not be tested as the shelf life of the sample had expired on 19.09.2020. Thus, according to the State, there was no deliberate lapse or negligence attributable to the Department and the delay, if any, occurred due to unavoidable circumstances arising out of the Covid-19 lockdown period. It is also argued by learned State counsel that even otherwise, the claim for analysis of the second sample drawn by the concerned Insecticide Inspector does not flow to the appellants, as the liberty to seek second analysis of the sample drawn is available only to the person from whom the sample was

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taken, as per sub-sections (3) and (4) of Section 24 of the Insecticides Act, 1968. It has further been submitted that the said liberty is available only in case the person from whom the sample was taken notifies in writing within 28 days of receipt of copy of the report his intention to adduce evidence in controversion of the report. Therefore, it is contended by learned counsel for the respondents that the petitioners before this Court, not being the persons from whom the sample was taken, cannot claim any right of second test within the mandate of Section 24(4) of the Act. Some of the admitted facts of the present case are that on 05.02.2020, the Insecticide Inspector drew sample of Thiamethoxam 30% FS bearing Batch No. SDSRP019802 from the premises of dealer firm M/s Tarandeep Kissan Khushali Kendra, Morinda Road, Chunni Kalan, District Fatehgarh Sahib. The manufacturing date of the sample was 20.09.2018 and the expiry/shelf life of the sample was up to 19.09.2020. Admittedly, the sample was not drawn from the present petitioners, who are representatives of the manufacturing/marketing company, but from the dealer firm.

7. The sample was deposited in the Insecticide Testing Laboratory, Ludhiana on 06.02.2020 and the Analysis Report dated 26.02.2020 was received in the office of the Chief Agricultural Officer, Fatehgarh Sahib on 06.03.2020 declaring the sample to be misbranded. Thereafter, show-cause notice dated 14.05.2020 was issued to the dealer firm and replies thereto were submitted by the dealer on 20.05.2020 and 22.05.2020. Thereafter, vide letter dated 02.07.2020, the dealer sought permission regarding re-analysis of the referee sample and in response thereto, the complainant-authority vide

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letter dated 10.08.2020 advised the dealer to get the referee sample re-tested through the Court. Pursuant thereto, the dealer moved an application before the learned Chief Judicial Magistrate for re-analysis of the referee sample and the learned Court vide order dated 18.09.2020 directed the same to be sent to the Central Insecticides Laboratory, Faridabad. However, when the sample reached the Central Insecticides Laboratory, the shelf life of the sample had already expired on 19.09.2020 and consequently, vide report/communication dated 29.09.2020, the Central Insecticides Laboratory informed that the referee sample could not be tested due to expiry of shelf life. It is further not in dispute that thereafter sanction for prosecution was processed and after obtaining written consent/sanction, the complainant was authorized to proceed further. Show-cause notice was thereafter issued to the present petitioners only on 08.10.2020 and reply thereto was submitted by the petitioners on 22.10.2020. Ultimately, complaint dated 04.01.2021 came to be filed before the learned Chief Judicial Magistrate, Fatehgarh Sahib.

8. This Court finds substance in the contention raised on behalf of the petitioners that the show-cause notice issued to the dealer prior to expiry of shelf life cannot be treated to be sufficient compliance qua the present petitioners, who are representatives of the manufacturing/marketing company and against whom criminal prosecution has also been launched. The petitioners were independently entitled to notice and opportunity to avail their valuable statutory right of seeking re-analysis of the referee sample from the Central Insecticides Laboratory before expiry of the shelf life of the sample. Admittedly, the shelf life of the sample expired on

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19.09.2020 whereas the first show-cause notice to the present petitioners was issued only on 08.10.2020 i.e. after expiry of the shelf life. Consequently, by the time the petitioners were informed regarding the alleged failure of the sample, their valuable right under Section 24 of the Insecticides Act, 1968 to seek re-analysis of the sample already stood defeated.

9. The contention raised by the respondent that the right of re-analysis is available only to the person from whom the sample was taken also cannot be accepted in view of the law laid down by the Hon'ble Supreme Court in ***M/s Northern Minerals Ltd. versus Rajasthan Government and another (supra)***, wherein it has specifically been held that even an accused other than the person from whom the sample was taken has a right to adduce evidence in controversion of the Insecticide Analyst's report and has a corresponding right to seek re-testing of the sample. The Hon'ble Supreme Court further held that where due to delay attributable to the complainant, the accused loses the valuable right of getting the second sample re-tested after expiry of shelf life, continuation of prosecution would amount to serious prejudice and the proceedings are liable to be quashed.

10. In the present case also, the admitted chronology of events clearly demonstrates that despite the analysis report having been received on 06.03.2020, the authorities failed to ensure timely completion of proceedings before expiry of shelf life. Even the referee sample sent on the request of the dealer pursuant to Court order dated 18.09.2020 was returned untested by the Central Insecticides Laboratory vide report dated 29.09.2020 on account

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of expiry of shelf life on 19.09.2020. Thus, the valuable statutory right of re-analysis stood frustrated on account of delay attributable to the complainant-authorities themselves. Even if it is assumed that the right of re-analysis was available only to the dealer from whom the sample had been taken, still the admitted sequence of dates clearly reveals that such right was not made available within reasonable time and the shelf life of the sample had already expired before effective re-analysis could take place. The analysis report had admittedly been received in the office of the Chief Agricultural Officer on 06.03.2020, whereas the dealer was advised to approach the Court for re-analysis only vide communication dated 10.08.2020. Thereafter also, despite the shelf life of the sample expiring on 19.09.2020, the order for re-analysis came to be passed only on 18.09.2020 i.e. one day prior to expiry of shelf life. Consequently, when the referee sample reached the Central Insecticides Laboratory, the same could not be tested and was returned vide communication/report dated 29.09.2020 on account of expiry of shelf life. Thus, even assuming that the right of re-analysis was available only to the dealer, the same stood frustrated on account of delay which has not been satisfactorily explained by the complainant-authorities.

11. In view of the above discussion, this Court is of the considered opinion that the valuable statutory right of re-analysis available under Section 24 of the Insecticides Act stood frustrated on account of delay attributable to the complainant-authorities themselves. The show-cause notice to the present petitioners was admittedly issued only after expiry of the shelf life of the sample and even the process initiated for re-analysis at

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the instance of the dealer could not culminate into effective testing before expiry of shelf life. Consequently, the petitioners were deprived of their valuable right to controvert the report of the Insecticide Analyst by seeking re-analysis from the Central Insecticides Laboratory. In such circumstances, continuation of the criminal proceedings against the petitioners would amount to abuse of process of law.

12. Accordingly, the present petition is allowed. Complaint No. COMA-1 dated 04.01.2021 titled as *State Vs. M/s Tarandeep Kissan Khushali Kendra and others*", pending before the learned Chief Judicial Magistrate, Fatehgarh Sahib, along with all consequential proceedings arising therefrom qua the present petitioners, is hereby quashed.

15. All pending applications, if any, also stand disposed of.

(MANDEEP PANNU)
JUDGE

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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No

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